

**BEFORE THE  
FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.**

In the Matter of:	)	
	)	
Request for Review of a	)	
Decision of the Universal Service	)	
Administrator and Waiver of the	)	CC Docket No. 02-6
Commission's Rules	)	
	)	
by	)	
	)	
Springfield City School District	)	
Springfield, OH	)	

TO: Marlene H. Dortch, Secretary  
Federal Communications Commission  
Office of the Secretary  
445 12th Street, SW  
Washington, DC 20554

Springfield City School District ("Springfield" or "SCSD") respectfully requests that the Federal Communications Commission ("FCC" or "Commission") review of a decision of the Administrator of the Universal Service Administrative Company ("USAC ") relative to the denial of an invoice extension for FRN 2221211. SCSD further requests that the Commission granted it a Waiver allowing it an extension to file a Billed Entity Applicant Reimbursement ("BEAR") for the FRN. This Request for Review and Waiver is made pursuant to 54.719 through 54.723 of the Commission's rules.<sup>1</sup>

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<sup>1</sup> 47 C.F.R. §§ 54.719–54.723

## Application Information

Billed Entity Number:	129994
FCC Form 471 Application Numbers:	776975
Funding Request Number Appealed:	2221211
Administrator's Decision on Appeal:	December 23, 2014

## Contact Information:

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## USAC DECISION ON INVOICE EXTENSION AND ON APPEAL

Springfield City School District is seeking a Review and Waiver relative to a USAC Administrator's Decision on Appeal, which denied its appeal relative to an invoice extension for FRN 2221211 stating:

Current invoice guidelines and procedures require Invoice Deadline Extension requests to be filed by the end of the relevant invoice receipt period for the service category of the FRN requiring an extension. The invoice receipt deadline is 120 days after the end of the service delivery date or 120 days after the date of the Form 486 Notification Letter, whichever is later. USAC denied your request for Invoice Deadline because the request was not filed in a timely manner. Since USAC's decision was consistent with Invoice Deadline Extension guidelines, your appeal must be denied.

**STATEMENT IN SUPPORT OF REQUEST FOR REVIEW AND WAIVER:**

**A. BACKGROUND FACTS**

Springfield City School District located in Springfield, Ohio serves the needs of roughly 7200 students, approximately 85% of which qualify for NSLP. In FY2011 the district applied for Centrex services under FRN 2221211, which Ohio Bell Telephone Co. (SPIN 143001688) provided pursuant to a properly executed thirty-six (36) month contract. Ohio Bell never implemented the agreed upon contract rates and billed SCSD excessive sums, often ten times what the contract provided for. SCSD disputed the bills and made continuous efforts to get the contract rate implemented which after three (3) years finally resulted in Ohio Bell issuing substantial credit. The credit involved multiple funding years and although SCSD has asked 16-19 times for a year-by-year breakdown of the credit, Ohio Bell has completely ignored SCSD's requests. Even appealing to AT&T's E-rate department for assistance has failed to bring the matter to fruition. Because the overcharged amount varied in each monthly billing, SCSD is not able to determine the *pro rata* amounts by looking at its bills. Because an allocation of the credit cannot be determined without the information from Ohio Bell a BEAR has not been able to be submitted to USAC and has necessitated SCSD seek two extensions of the invoicing deadlines for FRN 2221211.

On January 26, 2014, SCSD by and through its duly authorized E-rate consultant, Educational Funding Group, Inc., ("EFG") (CRN 16043587) filed the first Request for Invoice Deadline Extension for FRN 2221211; it was approved by the Administrator on April 24, 2014 and the invoicing deadline was extended to August 22, 2014. The second Request for Invoice

Deadline Extension was submitted to USAC on August 22, 2014; it was denied on September 19, 2014 on the grounds that "Current deadline guidelines and procedures do not allow approval for the reason submitted." A timely appeal was filed with USAC, which was denied by the Administrator on December 23, 2014, stating that the Request for Invoice Deadline Extension had not been timely filed. For reasons that SCSD cannot ascertain, the Administrator's Explanation justified its denial of the appeal asserting for the very first time this completely different reason and completely failed to address the issue upon which the appeal was based and which was the reason for which the extension was originally denied. Instead of addressing the issue on appeal, USAC acted improperly by raising a brand new reason – one of an untimely filing – as the basis for denying the appeal, which is prejudicial of the interests of SCSD.

#### **B. DISCUSSION:**

SCSD is bringing forth that there are three distinct issues to be addressed by the Commission in this Review and Waiver.

**ISSUE 1:** Whether SCSD was entitled to an invoice deadline extension for the reasons originally provided USAC in its Request for Extension filed on August 22, 2014:

SCSD's reasons supporting an invoice deadline extension that USAC deemed acceptable in January, were summarily rejected in August without USAC having informed SCSD or other applicants that changes had been made to its procedures or guidelines. Both of the extension requests contained the same reason(s) yet although the reason(s) remained the unchanged the first one was approved and the second denied. The Administrator's Explanation lacked specificity, basically stating that SCSD's reason just wasn't 'good enough' but not why.

SCSD gave details to support the reason upon which is based its request - that documentation requirements necessitated it to obtain third-party contact and certification. The guidance provided on the USAC website allows for this as the basis for requesting an invoice deadline extension so SCSD cannot fathom why the invoice extension request filed in August 2014 was denied "because current guidelines and procedures do not allow approval for the reasons submitted" when documentation requirements necessitating third-party contact or certification is *exactly* what SCSD needed to prepare an accurate Billed Entity Applicant Reimbursement ("BEAR") and stated so in its extension request(s). This is what SCSD argued in its appeal to USAC yet, when the Administrator denied the appeal, it based the denial on a completely different reason and completely failed to address the issue upon which the appeal was based. Using an Explanation that failed to address the issue on appeal and further lacked specific details, the Administrator leaves SCSD unable to comprehend what standard USAC applied and it is therefore unable to adequately address the issue in this Request for Review and Waiver.

SCSD made the requisite payments to Ohio Bell but, through no fault of its own, lacks the correct data/documentation to prepare an accurate BEAR. Basing reimbursement on correct data/documentation is necessary to remain in compliance with E-rate program rules, so USAC's denial of the August 22, 2014 invoice extension request seems a harsh penalty for SCSD who paid for the services, acted in good faith and sought to do everything right to comply with USAC and FCC requirements. SCSD continues to diligently pursue the matter with Ohio Bell, but all these years later, after numerous, numerous, attempts to get the breakdown of the credit SCSD is pessimistic as to whether the information will ever be forthcoming. Needing third-party

documentation was the reason underlying SCSD's submitting both of its Requests for Invoice Deadline Extension for FRN 2221211, which circumstances should have been sufficient, yet was summarily rejected by USAC without the particulars, despite the website stating otherwise.

**ISSUE 2:** Whether USAC erred when it denied SCSD's appeal for reasons that were completely different than that given in the Administrator's Decision on Invoice Extension Letter dated September 19, 2014, upon which the appeal to USAC was based:

On November 17, 2014 SCSD filed an appeal with USAC of the Administrator's denial of and invoice extension that issued September 19, 2014. The basis of the appeal was formulated to address the Administrator's reason for denying the extension which was that "Current deadline guidelines and procedures do not allow approval for the reason submitted." When the Administrator's Decision on Appeal denial issued on December 23, 2014, it cited a completely different reason for denying the appeal stating that the August 22, 2014 extension request wasn't filed in a timely manner. SCSD avers that USAC made a detrimental error by failing to address the reasons upon which the appeal was based. This error adversely affected the rights and interests of the district, was detrimental to the public interest and exceeded the scope of USAC's authority. SCSD respectfully requests that the Commission review these actions by USAC and find them to be in error.

**ISSUE 3:** Whether SCSD has presented special circumstances sufficient for the Commission to grant it a Waiver

In the situation described above it is evident that SCSD is, and always has been, completely dependent on Ohio Bell to provide them with the detailed billing documentation for the credit that is necessary to assure program compliance. It is also clear that SCSD has, and

continues to make, diligent efforts to obtain the breakdown of the credit from Ohio Bell.

Neither USAC nor the FCC provides guidance or recourse for an applicant who paid in good faith but cannot get the vendor to act and supply them with the correct paperwork necessary to prepare accurate E-rate reimbursements. Given the behemoth AT&T/Ohio Bell is in the telecom industry a "little guy" like SCSD has limited ability to get them to cooperate. Denying an invoice extension under these circumstances is not only punitive to the applicant, and contrary to public interest, but is financially detrimental to the district that made its best efforts to comply with all program rules in a timely manner.

The Commission has recognized that a rule may be waived where the particular facts make strict compliance inconsistent with the public interest. See *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990); and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969). In addition, the Commission has recognized that it may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. It has deemed a waiver to be appropriate if special circumstances warrant a deviation from the general rule, where such deviation would better serve the public interest than strict adherence to the general rule. *WAIT*, supra. SCSD asserts that based on the facts of this matter, strict compliance with the invoice extension guidelines to which USAC is referring, is inconsistent with the public interest and SCSD stands to suffer financial hardship if the guidelines are strictly enforced. The district believes that, based on the special circumstances presented herein, equity decrees that for FRN 2221211, the Commission grant SCSD a waiver of USAC's invoice extension rules and respectfully requests that it do so.

Since at the time the extension was denied any rule violation by SCSD would have been a procedural one, and since the filing of the Invoice Deadline Extension Request on August 22, 2014 preceded the effective date of the E-Rate Modernization Order, the extension request submitted on that date should be determined by the rules and procedures in effect both for the 2011 funding year and at the time it was filed, not any changes that took place in subsequent months.

## **CONCLUSION**

Throughout its application process, SCSD demonstrated compliance with E-rate program rules and regulations. It followed all core E-rate program requirements and committed no fraud, abuse or waste of E-rate funds. Under the circumstances presented, for USAC to deny SCSD an invoice extension for FRN 2221211 is against the public interest and will create financial hardship for the school district which serves a significant number of low income students.

Therefore, for the reasons contained herein and to better serve the public interest and the interests of the students of Springfield City School District, Springfield respectfully requests that the Commission:

1. Grant its Request for Review of USAC's actions relative to the invoice deadline extension denial for FRN 2221211;
2. Grant its Request for a Waiver of the invoice deadline extension denial for FRN 2221211;
3. Remand the FRN to USAC for further processing;
4. Issue an Order to USAC to grant an invoice extension for FRN 2221211;



5. Issue guidance as to how to get a non-responsive vendor (Ohio Bell) to provide the documentation necessary for an applicant (SCSD) to prepare its BEAR; and
6. Waive any procedural rules necessary to effectuate the Commission's resultant Orders.

Thank you for your consideration.

Respectfully submitted,

/s/ Michele Scaduto

Michele Scaduto

Educational Funding Group, Inc.

E-rate Consultant to Springfield City School District